

REMARKS

Claims 21-43 remain in the present application. Claim 21 was amended in this response to improve form. No new matter was introduced as a result of the amendment. Favorable reconsideration is respectfully requested.

The Examiner then rejected claims 21-43 of the present application under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In light of the present amendments, Applicant submits the rejection has been overcome. Withdrawal of the rejection is earnestly requested.

Claims 21 and 40-42 were rejected under 35 U.S.C. §102(b) as being anticipated by *Schmidt* (U.S. Patent No. 4,748,681). Claims 22-39 were identified as containing allowable subject matter. For the following reasons, Applicant respectfully traverses the Examiner's rejection and respectfully requests the withdrawal thereof.

Specifically, *Schmidt* does not teach or suggest "operating, in a radio cell of the radiotelecommunication system, at least two fixed parts and at least one portable part for purposes of wireless telecommunication" as recited in amended claim 21. As argued previously, *Schmidt* fails to teach or suggest at least two fixed parts in a single radio cell. *Schmidt* clearly discloses that only a single base station is used in each respective radio cell, and is merely directed to a telecommunication system wherein each of the radio cells respectively has a number of different mobile parts requiring different services, and wherein each base station supports these different services at least in part and communicates the supported services to the different mobile parts.

It follows that, in light of this deficiency, *Schmidt* also does not teach or suggest "signaling to the at least one portable part, via the first fixed part in a first system information item that the first fixed part supports either the first transmission mode and the second transmission mode, or that the first fixed part supports the second transmission mode but not the first transmission mode, depending on a traffic load carried by the second fixed part" as recited in claim 21. As stated above, *Schmidt* discloses one a single base station within a radio cell that offers different services independent of any other base station and independent of its traffic load, and only provides signals which indicate services that are available.

In light of the above, Applicant respectfully submits that the independent claim 21 of the present application, as well as claims 22-43 which respectfully depend therefrom, are both novel and non-obvious over the art of record. Accordingly, Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If any additional fees are due in connection with this application as a whole, the Examiner is authorized to deduct said fees from Deposit Account No.: 02-1818. If such a deduction is made, please indicate the attorney docket number (0112740-250) on the account statement.

Respectfully submitted,

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